

SB57

February 4, 2021

Nick Reinecker

Opponent

Senate Judiciary

Chair: Sen. Kellie Warren

This bill, at first blush, appears to not only suspend and eliminate statutory rights, but also creates a policy trajectory that smells of poisonous fruit from a poisonous tree. To my understanding this bill was drafted because of Kansas' response to a novel coronavirus wherein individuals accused of crimes have not had their day in court because of questionable executive orders and proclamations.

Looking at the totality of circumstances I do not believe it is prudent to enact such legislation especially when it seems to do away with state statutory rights to a speedy trial altogether. I oppose any action that would attempt to negate or limit rights that are guaranteed to be defended by this body. This includes KSA 20-172 in a perpetual state of emergency.

Regardless of the Speedy Trial Act of 1974, when considering the length of delay, the reason for the delay, the defendant's assertion of right and the prejudice to the defendant, we must pump the brakes on this consideration, especially in light of these unprecedented times when it would be so easy to trample on the constitutional application thereof.

We are all victims to this emergency declaration and sometimes there is collateral damage that cannot be avoided, however I do not believe this is the action best suited for remedy.

Thank you

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AN ACT concerning criminal procedure; **relating to discharge of persons not brought promptly to trial; suspension and elimination of statutory deadlines; amending K.S.A. 2020 Supp. 22-3402 and repealing the existing section.**

**Section 1.** K.S.A. 2020 Supp. 22-3402 is hereby amended to read as follows: 22-3402.

To Be Stricken

(j) The chief justice of the Kansas supreme court may issue an order to extend or suspend any deadlines or time limitations established in this section pursuant to K.S.A. 2020 Supp. 20-172, and amendments thereto. When an order issued pursuant to K.S.A. 2020 Supp. 20-172, and amendments thereto, is terminated, any trial scheduled to occur during the time such order was in effect shall be placed back on the court schedule within 150 days

To Be Added

**(j)** The provisions of this section shall be suspended until May 1, 2024, in all criminal cases filed prior to the effective date of this act. {Who chose and What is significance of May 1, 2024?}

**(k)** The provisions of this section shall not apply in any criminal case filed on or after the effective date of this act. {Does this mean a-i is no longer part of criminal procedure?}

**(l)** The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 2. K.S.A. 2020 Supp. 22-3402 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

20-172. Orders issued by chief justice to secure health and safety; suspension of deadlines or time limitations during a state of disaster emergency; authorized use of two-way electronic audio-visual communication.

(a) Notwithstanding any other provisions of law, during any state of disaster emergency pursuant to K.S.A. 48-924, and amendments thereto, the chief justice of the Kansas supreme court may issue an order to extend or suspend any deadlines or time limitations established by statute when the chief justice determines such action is necessary to secure the health and safety of court users, staff and judicial officers.

(b) Notwithstanding any other provisions of law, the chief justice of the Kansas supreme court may issue an order to authorize the use of two-way electronic audio-visual communication in any court proceeding when the chief justice determines such action is necessary to secure the health and safety of court users, staff and judicial officers.

**{Contingency beyond two-way electronic audio-visual communicationsd?}**

(c) Any order issued pursuant to subsection (a) may remain in effect for up to 150 days after a state of disaster emergency is terminated pursuant to K.S.A. 48-924, and amendments thereto. Any order in violation of this section shall be void.

(d) The provisions of this section shall expire on **March 31, 2021**. {Significance of date and Who chose?}  
History: L. 2020, ch. 4, § 1; L. 2020, ch. 1, § 24 (Special Session); June 9.